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Secretariat of the Convention on Biological Diversity

Summary

The present report has been submitted by the secretariat of the Convention on Biological Diversity for consideration at the in-depth dialogue of the Permanent Forum on Indigenous Issues at its ninth session. The report provides a summary of the secretariat's work that has been undertaken or is planned regarding indigenous peoples issues in relation to the Convention on Biological Diversity.

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I. Indigenous issues, the Convention on Biological Diversity and its legislative mandate

1. The Convention on Biological Diversity, to which 193 nations now adhere, is an almost universal instrument. It has three objectives: the conservation of biological diversity; the sustainable use of the components of biological diversity; and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. Spanning the thematic work programmes of the Convention are the cross-cutting issues of traditional knowledge innovation and practices; and access to genetic resources and benefit-sharing.

2. The international community has recognized the close and traditional dependence of many indigenous and local communities on biological resources, notably in the preamble to the Convention on Biological Diversity. There is also a broad recognition of the contribution that traditional knowledge can make to both the conservation and the sustainable use of biological diversity, two fundamental objectives of the Convention.

3. The Conference of the Parties has established a working group specifically to address the implementation of article 8 (j) and related provisions of the Convention. The Ad Hoc Open-ended Intersessional Working Group on Article 8 (j) and Related Provisions of the Convention is responsible for the development and implementation of the work programme with the full participation of indigenous and local communities. The Working Group on Article 8 (j) is open to all parties to the Convention, and indigenous and local communities representatives play a full and active role in its work. The Working Group promotes an enhanced participation mechanism for indigenous and local communities, including the nomination of an indigenous co-chairperson to assist the Chairperson of the meeting, as well as an indigenous and local community bureau (referred to as "Friends of the Chair"), and co-chairpersons for any sub-working groups and contact groups that may be established. indigenous and local communities also enjoy enhanced opportunities to make interventions on all agenda items.

4. A voluntary funding mechanism has also been established to facilitate the participation of indigenous and local communities in all relevant meetings held under the Convention.[1] The Convention remains the only multilateral environmental agreement that has a voluntary fund for the participation of indigenous and local communities in meetings held under the Convention.

5. Since traditional knowledge is considered a cross-cutting issue that affects many aspects of biological diversity, it is also taken into account and addressed by the Conference of the Parties and by other working groups, as well as the Working Group on Article 8 (j). In particular, in decision VII/19, D, the Conference of the Parties requested the Ad Hoc Working Group on Access and Benefit-sharing with the collaboration of the Ad Hoc Open-ended Intersessional Working Group on Article 8 (j) and Related Provisions to elaborate and negotiate an international regime on access to genetic resources and benefit-sharing with the aim of adopting an instrument/instruments to effectively implement the provisions in article 15 and article 8 (j) of the Convention and the three objectives of the Convention. This is an ongoing priority of the Convention, which is expected to culminate in the adoption

[1] See decision VIII/5, D, section I.

of the international regime on access and benefit-sharing by the Conference of the Parties at its tenth meeting, to be held in Nagoya, Japan, from 18-29 October 2010.

6. The Convention recognizes the need to exchange information in conjunction with the transfer of technology pursuant to article 16, paragraph 1. The status of indigenous and local communities traditional knowledge is also affirmed by the Conference of the Parties in preambular paragraph 9 of its decision III/14 regarding the implementation of article 8 (j). The Convention also contains three other provisions besides article 8 (j) that deal with the interests of indigenous and local communities. These are articles 10 (c), 17.2 and 18.4.

7. Article 10 (c) requires parties to protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements. Such customary uses can be considered to be synonymous with the knowledge, innovations and practices referred to in article 8 (j), when these are relevant to, or compatible with, the conservation and sustainable use of biological resources.

8. The traditional knowledge, innovations and practices of most indigenous and local communities directly derive from customary use of biological resources, thereby emphasizing the need to read article 10 (c) in conjunction with article 8 (j). The parties have indicated at the sixth meeting of the Working Group on Article 8 (j) a strong interest in pursuing a focus on article 10 (c)[2] in the future work of the Working Group on Article 8 (j).

9. Article 17 provides for the exchange of information. Article 17.2 obliges the parties to facilitate the exchange of information on, inter alia, indigenous and traditional knowledge as such and in combination with the technologies referred to in article 16, paragraph 1. Article 17.2 provides for the repatriation of information, which is of importance to indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity.

10. Article 18.4 lays down the requirements for technical and scientific cooperation, providing that the contracting parties should encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies, in pursuance of the objectives of the Convention. This allows for the same obligation and status as other technologies that can contribute to the conservation of biodiversity and for subjecting them to the technology transfer obligations of article 16 that ensure protection of the rights of knowledge holders. This obligation complements the general mandate of article 8 (j) (promote the wider application of the knowledge, innovations and practices of indigenous and local communities), article 12 (research and training), article 16 (access to and transfer of technology), article 17 (exchange of information) and article 19 (handling of biotechnology and distribution of its benefits).

II. Implementation of Permanent Forum on Indigenous Issues recommendations

11. New recommendations arising from both the seventh session (2008) and the eighth session (2009) of the Permanent Forum on Indigenous Issues made to the

[2] See UNEP/CBD/10/2, annex I, recommendation 6/4, paras. 8-11.

Convention were considered by the Working Group on Article 8 (j) and related provisions at its sixth meeting, held in Montreal, Canada, from 2 to 6 November 2009. The resulting draft decisions[3] will be submitted to the tenth meeting of the Conference of the Parties, to be held in Nagoya, Japan, in October 2010, for its consideration and action, as appropriate.

12. It is important to note, however, that some of the recommendations arising from the report of the Permanent Forum at its seventh session (E/2008/43) are already in the process of being addressed since they are related to previous recommendations and current or ongoing processes. The sections below provide an update on these current or ongoing recommendations, and draw attention to recommendations considered by the Working Group and being forwarded to the Conference of the Parties for its possible action.

A. Response to recommendations addressed to the Convention on Biological Diversity by the Permanent Forum on Indigenous Issues at its seventh session

Paragraph 19

13. The secretariat, in partnership with the United Nations University and the Tebtebba Foundation, facilitated a global indigenous peoples consultation on reducing emissions from deforestation and forest degradation in Baguio City, the Philippines, from 12 to 14 November 2008. The secretariat also ensured that indigenous and local communities are represented in climate-related meetings of the Convention, including the 1st meeting of the second ad hoc technical expert group on biodiversity and climate change, held in London from 17 to 21 November 2008. The secretariat submitted a summary document of these meetings to the United Nations Framework Convention on Climate Change for consideration at its Conference of the Parties held in December 2009.

Paragraph 32

14. Article 8 (j) requires that each party to the Convention, subject to its national legislation respect traditional knowledge. In implementing this obligation, the Conference of the Parties is considering ways and means to enable traditional knowledge to be valued alongside scientific knowledge in pursuing the goals of the Convention. The recent work on climate change and biodiversity, including the international expert meeting for the Arctic region on responses to climate change for indigenous and local communities and the impact on their traditional knowledge related to biological diversity held in Helsinki from 25 to 28 March 2008, provided an avenue to explore how these two pools of knowledge could be complementary and equally valued.

Paragraph 33

15. The secretariat, in partnership with the Government of Germany through the German Agency for Technical Cooperation, is pursuing an access and benefit-

[3] See the report of the 6th meeting of the Working Group on Article 8 (j) (UNEP/CBD/10/2), made available as an information document for the Permanent Forum on Indigenous Issues at its ninth session.

sharing capacity-building strategy in the African region, and indigenous and local communities representatives are regularly included in these workshops and in regional capacity-building workshops on protected areas.

Paragraph 80

16. The Working Group on Article 8 (j) is unique both within and beyond the Convention on Biological Diversity and deals specifically with the knowledge, innovations and practices of indigenous and local communities. At the 6th meeting of the Working Group on Article 8 (j) (Malaysia, 2 to 5 November 2009), participants discussed a multi-year programme of work concerning article 8 (j) and related provisions and considered, inter alia, whether the Working Group could be used as a think tank for such important issues as climate change and protected areas. That said, other meetings of the Convention comprise multiple interest holders, and a balance must be achieved for all interested parties, including indigenous and local communities. In such cases, indigenous and local communities can enjoy effective participation mechanisms but cannot be elevated above other parties.

17. The Working Group on Access and Benefit-sharing and the ninth meeting of the Conference of the Parties, in its most recent decisions, have recognized the importance of the participation of indigenous and local communities in the elaboration and negotiation of the international regime on access and benefit-sharing, and the co-chairpersons of the Working Group are endeavouring to ensure that representatives of indigenous and local communities can make timely interventions, within the rules of procedure.

Paragraph 81

18. In decision IX/13, G, paragraph 5, the ninth meeting of the Conference of the Parties requested that the Working Group on Article 8 (j) further develop the draft elements of a code of ethical conduct and submit them to the Conference of the Parties at its tenth meeting for its consideration and possible adoption. Further to this, in paragraph 3 of the same decision, the Conference of the Parties requested the Executive Secretary to transmit the decision to the Permanent Forum on Indigenous Issues and to seek collaboration in the development of the elements of a code of ethical conduct.

19. In response to that request, the Permanent Forum, which is composed of independent experts,[4] has agreed by consensus on the recommendation, as concrete advice to assist in the development and adoption of the code by the tenth meeting of the Conference of the Parties, to be held in October 2010. This advice has been included for the consideration of the parties at the 6th meeting of the Working Group on Article 8 (j) (see UNEP/CBD/WG8J/6/INF/2).

Paragraph 82

20. In decision IX/13, I, paragraph 3, the Conference of the Parties requested the Executive Secretary to draw attention to the important role of indigenous and local communities in activities related to 2010 as the International Year of Biodiversity, and to cooperate closely with the Permanent Forum on Indigenous Issues, to explore

[4] Eight of whom are nominated by Governments and eight of whom are nominated through indigenous regional processes.

opportunities for common activities as related to information exchange and awareness-raising under the guidance of the Bureau. Further to this, and owing to the generous patronage of the Government of Spain, the secretariat has prepared a menu of activities that has been considered by the Bureau and indigenous and local community working groups on education and community awareness, as well as by the secretariat and interested members of the Permanent Forum, so that products can be prepared for use during the International Year. The products will have two focuses, including for indigenous and local communities to improve knowledge of and effective participation in convention processes and/or for the general public to improve knowledge about indigenous and local communities, traditional knowledge and the goals of the Convention.

21. Products under development include:

(a) Animation for use on television, in airlines, on screen savers;

(b) Community-based short films/videos on indigenous and local communities, traditional knowledge and biodiversity;

(c) Exhibitions, United Nations Headquarters;

(d) United Nations Educational, Scientific and Cultural Organization posters partnership (on traditional knowledge), translated into diverse languages;

(e) Community radio stories and interviews translated into diverse languages;

(f) Partnerships to improve related sections of the web pages of the portal www.indigenousportal.com;

(g) Participation guides for indigenous and local communities for effective participation in Convention on Biological Diversity processes (multiple languages) to be developed as training materials;

(h) Article 8 (j) newsletter, *Pachamama*, in English, Spanish and French.

22. Possible high-profile events for the showcasing of products may include but are not limited to the following:

(a) Ninth session of the Permanent Forum, New York, April 2009;

(b) Global Conference on Cultural and Biological Diversity for Development, Montreal, July 2010;

(c) Joint Convention on Biological Diversity/United Nations Educational, Scientific and Cultural Organization 2010 display on cultural and biological diversity (throughout 2010);

(d) Tenth meeting of the Conference of the Parties, Japan, October 2010.

Paragraph 83

23. The "sui generis system" working document (see UNEP/CBD/WG8J/5/6) was being revised in collaboration with the World Intellectual Property Organization and the Permanent Forum and with input from parties, Governments, agencies and indigenous and local communities representatives for consideration at the 6th meeting of the Working Group on Article 8 (j), which met in November 2009. After consideration by the Working Group, a draft decision was formulated and agreed to

and will be sent to the tenth meeting of the Conference of the Parties for adoption and action. The decisions will guide the work of the Working Group on Article 8 (j) for the next biennium and influence future work leading up to 2020.

24. A study on compliance in relation to the customary law of indigenous and local communities, national law, across jurisdictions, and international law, by indigenous experts, was commissioned by the secretariat, in response to decision IX/12, paragraph 13(e) of the ninth meeting of the Conference of the Parties to inform the development and negotiation of the international regime on access and benefit-sharing. The study was made available to the meeting of the group of technical and legal experts on compliance in the context of the international regime on access and benefit-sharing and the 7th and 8th meetings of the Working Group on Access and Benefit-sharing. All relevant documents produced by the secretariat have been forwarded through the secretariat of the Permanent Forum to the Special Rapporteur on sui generis systems for his consideration.

Paragraph 84

25. In decision IX/12, paragraph 11, the Conference of the Parties considered, inter alia, the recommendations of the Permanent Forum and decided to establish three distinct groups of technical and legal experts on: (a) compliance; (b) concepts, terms, working definitions and sectoral approaches; and (c) traditional knowledge associated with genetic resources.

26. The meeting of the expert group on traditional knowledge associated with genetic resources was held in Hyderabad, India from 16 to 19 June 2009 and the report (UNEP/CBD/WG-ABS/8/2) has been made available for consideration at the 8th meeting of the Working Group on Access and Benefit-sharing and to the Working Group on Article 8 (j) for its information.

27. With a view to ensuring that traditional knowledge issues and indigenous peoples rights are fully addressed in the development of an international regime on access and benefit-sharing, some parties and regional groupings, in collaboration with the secretariat, have also pursued their own initiatives, such as the European Union-sponsored Vienna workshop on matters related to traditional knowledge associated with genetic resources and the international access and benefit-sharing regime, which was held from 15 to 17 December 2008, and the Vilm workshop on matters related to traditional knowledge associated with genetic resources and the international regime on access and benefit-sharing, which was sponsored by the Government of Germany and held on the Ilse of Vilm from 6 to 10 June 2009. The reports of those meetings were submitted to the 8th meeting of the Working Group on Access and Benefit-sharing.

28. Finally, indigenous and local communities are working with the Government of Spain and the secretariat to ensure the effective participation of indigenous and local communities in the access and benefit-sharing intersessional process (between the 8th and 9th meetings of the Working Group on Access and Benefit-sharing). Further to this, the Government of Spain has agreed to fund a meeting of indigenous negotiators, facilitated by the secretariat in Madrid, in February 2010.

B. Recommendations ongoing or considered by the Working Group on Article 8 (j) and referred to the Conference of the Parties

Paragraph 81 of the report of the Forum on its seventh session

29. In paragraph 81, the Permanent Forum requested the secretariat of the Convention on Biological Diversity to complete its work on the draft code of ethical conduct for the recognition and protection of indigenous intellectual property and cultural heritage, taking into account the Declaration on the Rights of Indigenous Peoples, as a minimum standard, with a view to adopting the code at the tenth meeting of the Conference of the Parties in 2010, the International Year of Biodiversity.

Paragraph 7 of the report of the Forum on its eighth session

30. In paragraph 7 of the report (E/2009/43), the Permanent Forum welcomed such initiatives as the indigenous and local community, business and biodiversity consultation, held at United Nations Headquarters in New York on 12 and 13 May 2009, as a useful dialogue between the private sector and indigenous peoples, and encouraged further discussions with a view to ensuring the effective implementation of the United Nations Declaration on the Rights of Indigenous Peoples while stimulating community-level businesses based on the sustainable use of biodiversity through such creative partnerships.

C. Draft decisions adopted by the 6th meeting of the Working Group on Article 8 (j) related to recommendations arising from the eighth session of the Permanent Forum on Indigenous Issues for the consideration at the tenth meeting of the Conference of the Parties

31. The 6th meeting of the Working Group on Article 8 (j) considered the recommendations arising from the eighth session of the Permanent Forum on Indigenous Issues and forwarded the following recommendations for the consideration of the governing body (Conference of the Parties) at its tenth meeting, to be held in Nagoya, Japan in October 2010:

(a) *Takes note* of the Permanent Forum on Indigenous Issues recommendation that requests Parties, in the development, negotiation and adoption of the code of ethical conduct, to ensure respect for the cultural and intellectual heritage of indigenous and local communities relevant to the conservation and sustainable use of biological diversity, and to ensure that the standard established in the code adequately reflects relevant international standards, including the Declaration on the Rights of Indigenous Peoples;

(b) *Takes note also* of the report of the indigenous and local community, business and biodiversity consultation (UNEP/CBD/WG8J/6/INF/11), held at United Nations Headquarters in New York on 12 and 13 May 2009, and encourages further discussions with a view to ensuring the effective implementation of the Convention on Biological Diversity, through creative partnerships between stakeholders, while stimulating community-level businesses based on the sustainable use of biodiversity;

(c) *Requests* the Executive Secretary to inform the Permanent Forum on Indigenous Issues at its next session of progress made on the code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities relevant to the conservation and sustainable use of biological diversity.

III. Assessment of current work

A. Special theme: Indigenous peoples: development with culture and identity: articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples

32. The most notable advance within the framework of the Convention, relevant to development, comes from the commitment of the parties to implement the third objective of the Convention[5] (the fair and equitable sharing of the benefits arising out of the utilization of genetic resources) through the negotiation and development of the international regime on access to genetic resources and benefit-sharing for adoption at the tenth meeting of the Conference of the Parties in October 2010.

33. The timetable for the finalization of the international regime was adopted at the ninth meeting of the Conference of the Parties and includes in this biennium (2008-2010) three meetings of the Working Group on Access and Benefit-sharing (7th, 8th and 9th meetings), taking place over seven consecutive days. The full details of the Working Group meetings and the expert groups are available from the Convention website at http://www.cbd.int/meetings/. The full text of decision IX/12, including the terms of reference for the three expert group meetings is available from http://www.cbd.int/decision/cop/?id=1655.

34. The Conference of the Parties has recognized the importance of the participation of indigenous and local communities in the elaboration and negotiation of the international regime on access and benefit-sharing in the preamble of decision IX/12. In paragraphs 18 and 19, it encourages parties, other Governments, international organizations and all relevant stakeholders to provide the ways and means to allow for sufficient preparation and to facilitate effective participation of indigenous and local communities, including through national and regional workshops, in the process of the negotiation and elaboration of the international regime, in accordance with decision VIII/5, C. Indigenous peoples effective participation in access and benefit-sharing discussions is further guaranteed through the Working Group on Article 8 (j) and related provisions, which promotes a unique, enhanced participation mechanism for indigenous peoples and local communities, and remains mandated to continue to collaborate and contribute to the fulfilment of the mandate of the Working Group on Access and Benefit-sharing by providing views on the elaboration and negotiation of the international regime on access and benefit-sharing relevant to traditional knowledge, innovations and practices associated with genetic resources and to the fair and equitable sharing of benefits arising from their utilization.[6]

35. The secretariat remains committed to the effective participation of indigenous and local communities in all meetings of relevance to them. The secretariat

[5] See article 1 of the Convention.

[6] See decision IX/13, A, para. 12.

anticipates that the voluntary fund (for indigenous and local communities participation in meetings held under the Convention) will fund a core of approximately 25 indigenous and local community representatives to participate in each of the three meetings of the Working Group on Access and Benefit-sharing between April 2009 and March 2010, as well as an additional 50 participants for the tenth meeting of the Conference of the Parties.

B. Indigenous women

36. In 2008, the Convention developed and adopted the Convention on Biological Diversity Gender Plan of Action, which was drafted with the full and effective participation of indigenous women. In decision IX/24, the Conference of the Parties welcomed the initiative and committed to support the implementation of the plan by the secretariat. The Plan of Action defines the role that the Convention on Biological Diversity secretariat will play in stimulating and facilitating efforts, both in-house and with partners at the national, regional and global levels, to overcome constraints and take advantage of opportunities to promote gender equality. The Plan of Action is the secretariat's and the Convention's continuing response to the global commitments of the past decades, as well as to recommendations made within international forums, and in compliance with major mandates of the United Nations system. It is also a reflection of the increasing awareness that gender equality and women's empowerment are important prerequisites for environmental conservation and sustainable development. The Plan of Action specifically recognizes the crucial role of indigenous and local communities women in the use and transmission of traditional knowledge. The final Convention on Biological Diversity Gender Plan of Action has now been adopted and the secretariat is working with the International Union for Conservation of Nature to ensure that the Plan of Action becomes a reality through the mainstreaming of gender issues through national biodiversity strategies and national action plans.

37. The secretariat continues to cooperate with the secretariat of the Permanent Forum on Indigenous Issues, among other relevant organizations, and with women representatives of indigenous and local communities to ensure that the perspectives and strategies of indigenous women in biodiversity-related issues are taken into account within the work being done under the Convention with regards to traditional knowledge and that capacity-building efforts target indigenous women.

38. Owing to the generous patronage of the Government of Spain, the secretariat in early 2009, negotiated a long-term capacity-building strategy and entered into a three-year memorandum of understanding with la Fundación para la Promoción del Conocimiento Indigena, acting on behalf of the Latin American and Caribbean Indigenous Women's Biodiversity Network, to provide capacity-building for indigenous women to assist them in effectively participating in meetings held under the Convention and specifically to assist their preparations for the tenth meeting of the Conference of the Parties. In addition, thanks to the Government of Spain, the secretariat has completed arrangements to bring on board a young indigenous woman from the Latin American and Caribbean region as an associate programme officer for the Working Group on Article 8 (j) and related provisions, with a view to providing her with extensive training and to achieving the medium-term goal of enabling her to lead this capacity-building effort in the region.

C. Second International Decade of the World's Indigenous People

39. All activities within the framework of the Convention on Biological Diversity related to indigenous and local communities directly contribute to the implementation of the objectives of the Decade of the World's Indigenous People. In particular, article 8 (j) and related provisions directly address matters of the utmost importance to indigenous and local communities by focusing on the respect, preservation and maintenance of the knowledge, innovations and practices of indigenous and local communities, embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity. Article 8 (j) also requires that such knowledge, innovations and practices be promoted with the approval and involvement of the knowledge holders and encourages the equitable sharing of benefits arising from their use. Further to this, recent decisions of the Conference of the Parties have consistently and by consensus interpreted "approval" in this context as "prior and informed consent" and have interpreted their obligations to article 8 (j) to include the "protection" of traditional knowledge.

40. In brief, the Convention on Biological Diversity has considerably advanced the preliminary work of the secretariat on the promotion and protection of traditional knowledge. In distilling the work of the secretariat into outcomes, the Convention has entered a period of enhanced implementation and actively seeks and encourages the involvement of indigenous and local communities in the review, development and implementation of the work programme of the Working Group on Article 8 (j) and related provisions, which contributes directly to the goals of the Second Decade of the World's Indigenous People.

41. In particular, a unique opportunity exists for highlighting the role of indigenous and local communities in achieving the goals of the Convention during the International Year of Biological Diversity, which will be celebrated around the world in 2010. In particular, in the most recent decisions, which include IX/13, E, paragraph 5, and IX/13, I, paragraph 3, regarding indigenous and local communities and the International Year, the parties to the Convention have requested[7] the development of alternative means of communicating public information on traditional knowledge related to the conservation and sustainable use of biodiversity, in plain language and diverse community-friendly formats, including video, television, audio for community radio, songs, posters, theatre/drama and film, in order to ensure the full and effective participation of indigenous and local communities, including women and youth, at local, national and international levels, while supporting the development by indigenous and local communities of their own media tools, and has requested the Executive Secretary to draw attention to the important role of indigenous and local communities in activities related to 2010 as the International Year of Biodiversity and to cooperate closely with the Permanent Forum on Indigenous Issues to explore opportunities for common activities related to information exchange and awareness-raising under the guidance of the Bureau.

[7] Through the Global Initiative on Communication, Education and Public Awareness and the clearing house mechanism.

D. Other matters of interest to the Permanent Forum on Indigenous Issues

Indigenous languages and indicators update

42. At the sixth meeting of the Conference of the Parties, the Convention on Biological Diversity adopted a strategic plan and the 2010 target to significantly reduce the rate of biodiversity loss. In decision VII/30, the seventh meeting of the Conference of the Parties adopted a framework for assessing progress towards the 2010 target covering seven focal areas, goals, targets and the identification of provisional indicators, comprising indicators for immediate testing and possible indicators for development. One focal area is to protect traditional knowledge, innovations and practices. Goal 9 of the 2010 target is to maintain the sociocultural diversity of indigenous and local communities, with two targets and relevant indicators to be developed by the Working Group on Article 8 (j):

- Target 9.1: Protect traditional knowledge, innovations and practices
- Target 9.2: Protect the rights of indigenous and local communities over their traditional knowledge, innovations and practices, including their rights to benefit-sharing.

43. With regard to traditional knowledge, an indicator on the status and trends in linguistic diversity and speakers of indigenous languages was included as an indicator for immediate testing. In decision IX/13, H, the Conference of the Parties recommended that a maximum of two additional indicators on the status of traditional knowledge, innovations and practices should be selected for inclusion in the framework by the Ad Hoc Working Group on Article 8 (j) and Related Provisions at its sixth meeting.

44. The secretariat is collaborating with the United Nations Educational, Scientific and Cultural Organization regarding the lead agency for the collection of data on the status and trends in linguistic diversity and is exploring other possible complementary indicators with the International Labour Organization, the Food and Agricultural Organization of the United Nations and the International Fund for Agricultural Development. Complementary indicators being explored include traditional occupations/livelihoods and changing land-use patterns. The secretariat reported on these matters at the 6th meeting of the Working Group on Article 8 (j), held in Malaysia, from 2 to 5 November 2009.

45. Two additional indicators for traditional knowledge were considered at the 6th meeting of the Working Group on Article 8 (j) and are proposed for consideration by the tenth meeting of the Conference of the Parties, to complement the adopted indicator (on status and trends of linguistic diversity and numbers of speakers of indigenous languages), and the focal area on protection of traditional knowledge, innovations and practices, in order to assess progress towards the post-2010 biodiversity target, as well as to assess progress in the implementation of the revised strategic plan.

46. The Working Group on Article 8 (j) considered a proposal by the indigenous working group on indicators for the following additional two indicators for status and trends in traditional knowledge and decided to adopt the proposal as a draft decision to be considered by the tenth meeting of the Conference of the Parties:

(a) Status and trends in land-use change in the traditional territories of indigenous and local communities;

(b) Status and trends in the practice of traditional occupations.

IV. Gaps and possible solutions

A. Recommendations to the secretariat

47. The secretariat of the Convention, serves 193 parties, engages both rights and stakeholders, but strictly speaking is not an implementation body. The Convention is implemented through the Conference of the Parties and through implementing agencies such as the Global Environment Facility and the United Nations Development Programme. The Convention itself has a focused mandate on conservation, sustainable use and benefit-sharing, and article 8 (j) applies specifically to knowledge, innovations and practices of indigenous and local communities relevant to conservation and sustainable use, making it essential to receive recommendations within the scope of its mandate, so that action, where possible, can be taken.

48. It has been noted by the secretariat that some Permanent Forum recommendations are directed to the Conference of the Parties and some are directed to the secretariat; on occasion, it is not clear to whom they are directed. Also, it is necessary for recommendations directed to the Conference of the Parties to first be discussed by the Working Group on Article 8 (j), which usually meets once every two years and for the Working Group then to forward the recommendation as a draft decision to the governing body, the Conference of the Parties, for its consideration and possible adoption for action. This biennium process makes it difficult to report on concrete outcomes on an annual basis. However, the new working methods initiated by the Forum, including the new reporting cycle, which allows for the in-depth reporting of a limited number of agencies per annual session, provides a useful mechanism to ensure that agencies can elect for in-depth reporting every few years, thereby making it easier to report on concrete outcomes.

B. Recommendations to parties

49. Regarding Convention processes, Permanent Forum recommendations, when adopted by consensus by the Conference of the Parties to the Convention on Biological Diversity, become Conference of the Parties decisions, and parties then have an obligation to take them into account, implement them and report on them through their national reports.[8] The fourth national reports were due on 30 March 2009. After receipt of the national reports, the secretariat carries out an in-depth analysis to gain an accurate picture of the implementation of the Convention on the ground. An analysis of approximately 70 of the fourth national reports was made available for consideration at the 6th meeting of the Working Group on Article 8 (j).

[8] The national reports are the only legal obligation of parties to the Convention, and the parties have received advice from the secretariat requesting the effective participation of indigenous and local communities in consultations on, and the drafting of, the national report.

A more thorough analysis of the fourth national reports will be prepared for the 7th meeting of the Working Group.

50. In the analysis and overall assessment by the secretariat of the third national reports (based on 132 out of a possible 192 reports), the overall implementation of article 8 (j) and related provisions has required increased efforts and support. Support to the efforts to determine the status and trends of traditional knowledge, innovations and practices of indigenous and local communities has progressed in many countries because of an increasing awareness of its value across a wide range of areas; however, only some countries recognize the importance of the traditional knowledge of indigenous and local communities to biodiversity conservation and sustainable use.

51. There remain several challenges and obstacles facing countries in the implementation of article 8 (j), including financial, capacity, social, political, public awareness and demographic obstacles. Parties reported that the 10 most significant obstacles to implementation of article 8 (j) were the following, in order of the perceived level of challenge to implementation:

(a) Lack of financial, human and technical resources;

(b) Lack of economic incentive measures;

(c) Lack of public education and awareness at all levels;

(d) Existing scientific and traditional knowledge not fully utilized;

(e) Lack of adequate scientific research capacities to support all the objectives;

(f) Lack of horizontal cooperation among stakeholders;

(g) Lack of capacities for local communities;

(h) Lack of synergies at national and international levels;

(i) Lack of appropriate policies and laws;

(j) Inadequate capacity to act, caused by institutional weaknesses.

52. Finally, the secretariat would like to emphasize that a collaborative development of recommendations allows for the crafting of recommendations that fall within the mandate of the relevant agencies and therefore facilitates acceptance and implementation. Mechanisms such as the Inter-Agency Support Group on Indigenous Peoples' Issues remain an innovative approach for collaboration and action by the international system. Because of the rather lengthy Convention on Biological Diversity processes that recommendations must follow before they can become implementable decisions, the newly established arrangements of in-depth dialogues for only six agencies each year may greatly assist in ensuring that agencies and their governing bodies have sufficient time to consider, take action and report on outcomes to the Permanent Forum. In addition, the secretariat manages hundreds of decisions each biennium; prioritization of the various recommendations depends on political will, adequate funding, resources and capacity.